



Entered on Docket
December 08, 2009

Bruce A. Markell

Hon. Bruce A. Markell
United States Bankruptcy Judge

Edward S. Coleman, Esq., SBN: 000601
Elizabeth DeFlyer, Esq., SBN: 10021
Coleman Law Associates, A Professional Law Corporation
9708 S. Gillespie Street, Suite A-106
Las Vegas, NV 89183-7614
Telephone: (702) 699-9000
Facsimile: (702) 699-9006
E-Mail: mail@coleman4law.com
Attorneys for Debtor,
James R. Thomas and Danielle Thomas

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:	Case No. 09-17390-bam
JAMES R. THOMAS	Chapter 11
and	Hearing Date: November 16, 2009
DANIELLE THOMAS,	Hearing Time: 9:00 A.M.
Debtors.	Courtroom: 3

**ORDER GRANTING AMENDED MOTION TO VALUE COLLATERAL, "STRIP
OFF" AND MODIFY RIGHTS OF SPECIALIZED LOAN SERVICING
PURSUANT TO 11 U.S.C. §506(a) and §1123**

Upon the Motion ("**Motion**") of JAMES R. THOMAS and DANIELLE THOMAS ("**Debtors**"), to Value Collateral, "Strip Off" and Modify Rights of SPECIALIZED LOAN SERVICING ("**Creditor**"), pursuant to 11 U.S.C. §506(a) and §1123 with regard to its wholly unsecured second mortgage on Debtor's real property located at 9721 Falling Star Avenue, Las Vegas, NV 89117 ("**Subject Property**"); and a hearing having been held before this Court on November 16, 2009 ("**Hearing**"), and with ELIZABETH DEFLYER, ESQ. Of COLEMAN LAW

1 ASSOCIATES, APLC, appearing for Debtors; and due notice of the Motion and the Hearing of the
2 Motion having been given to all parties entitled thereto; no Opposition being filed by the Trustee or
3 by creditors and the Court having heard the representations of counsel, and having reviewed the
4 moving papers on file herein, to consider approval of the Motion, at which time all parties in interest
5 were afforded an opportunity to be heard; and good cause appearing therefore, it is hereby:

6 **ORDERED** that the Motion is **GRANTED**; it is further

7 **ORDERED** that the Subject Property is valued at TWO HUNDRED FIFTY-ONE
8 THOUSAND, NINE HUNDRED FIFTY-FIVE DOLLARS AND ZERO CENTS (\$251,955.00); and
9 it is further

10 **ORDERED** that **Specialized Loan Servicing's** secured claims are "Stripped Off" and shall
11 be treated as "general unsecured claims" pursuant to 11 U.S.C. §506(a); and it is further

12 **ORDERED** that **Specialized Loan Servicing's** claim in the amount of \$110,458.00 be
13 reclassified as a general unsecured claim to be paid pro rata with other general unsecured creditors
14 through the Debtor's Chapter 11 Plan; and it is further

15 **ORDERED** that **Specialized Loan Servicing's** secured rights and/or lien-holder rights in
16 the Subject Property are hereby terminated; and it is further

17 **ORDERED** that Creditor is entitled to file an amended Proof of Claim listing its claim as
18 an unsecured claim to be paid in accordance with the Debtor's Chapter 11 Plan. If an amended
19 Claim is not filed, the Trustee may treat any claim (secured or unsecured) filed by Creditor as
20 unsecured upon entry of the Order herein; and it is further

21 **ORDERED** that the Debtor must complete the Chapter 11 plan and receive a discharge or
22 the lien may be reinstated; and it is further

23 **ORDERED** that upon receipt of the Debtor's Chapter 11 discharge and completion of his
24 Chapter 11 Plan, Creditor shall record a reconveyance of its second deed of trust against the Subject
25 Property; and it is further

26 **ORDERED** that Creditor shall retain its lien in second position for the full amount due under
27 the Note and Second Deed of Trust in the event of either a dismissal of the Debtor's Chapter 11 case
28

1 or the conversion of the Debtor's Chapter 11 case to any other Chapter under the United States
2 Bankruptcy Code; and it is further

3 **ORDERED** that in the event that the holder of the first deed of trust or any senior lien on
4 the Subject Property forecloses on its interest and extinguishes Creditor's second lien rights prior
5 to the Debtor's completion of the Chapter 11 Plan and receipt of a Chapter 11 discharge, Creditor's
6 lien shall attach to the surplus proceeds from the foreclosure sale, if any, for the full amount of the
7 amount due and owing under the Note and Second Deed of Trust; and it is further

8 **ORDERED** that as provided by Fed. R. Bankr. P. 7062, this Order shall be effective and
9 enforceable immediately upon entry.

10 Dated this 16th day of November, 2009

11 Submitted by:

COLEMAN LAW ASSOCIATES
A PROFESSIONAL LAW CORPORATION

12
13 By: /s/ Elizabeth DeFlyer,
Elizabeth DeFlyer, Esq..
14 Nevada Bar No. 10021
9708 South Gillespie Street, Suite A-106
15 Las Vegas, Nevada 89183
Attorneys for Debtor

16 **SUBMISSION TO COUNSEL FOR APPROVAL PURSUANT TO LR 9021**

17 In accordance with Local Rule 9021, counsel submitting this document certifies as
18 follows (check one):

19 ☐ The court has waived the the requirement of approval under LR 9021.

20 ☒ No parties appeared or filed written objections, and there is no trustee appointed in
the case.

21 ☐ I have delivered a copy of this proposed order to all counsel who appeared at the
22 hearing, any unrepresented parties who appeared at the hearing, and any trustee
appointed in this case, and each has approved or disapproved the order, or failed to
23 respond, as indicated below (list each party and whether the party has approved,
disapproved, or failed to respond to the document):

24 APPROVED:

25 DISAPPROVED:

26 FAILED TO RESPOND:

27 ###

28 Page 3